

## REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated March 23, 2007. By this Response, claims 1 and 8 are amended; claims 4-7 and 11-21 are cancelled; and new claims 22-26 are added. Therefore, by this Response, claims 1-3, 8-10, and 22-26 are currently pending. Claims 1 and 16 are objected to because of informalities. Claims 1-21 are rejected under 35 U.S.C. §102(e) as being anticipated by *Albro et al.*, U.S. Publication No. 2003/0067393A1 ("*Albro*"). Applicant notes that the Examiner rejected claims 1-12, however Applicant respectfully assumes that such referral to claims 1-12 was inadvertent with the Examiner actually meaning to refer to claims 1-21. Please let us know if such assumption is mistaken. Applicant believes the pending claims are allowable over the art of record and respectfully requests reconsideration and allowance of all claims.

### **I. Claim 1 is not objectionable.**

The Examiner has objected to claims 1 and 16 for informalities. Please note that claim 16 is cancelled by this Response. In addition, the Applicant respectfully requests the Examiner to remove the objection to the amended claim 1.

### **II. Claims 1-3 and 8-10 are not anticipated by *Albro*.**

Applicant respectfully traverses the Examiner's rejections of claims 1-3 and 8-10 under §102 as being anticipated by *Albro*. Applicant submits that the claims are not anticipated by *Albro* because *Albro* fails to disclose each and every limitation of these claims. Please note that claims 4-7 and 11-21 are cancelled by this Response.

Claim 1 is an independent claim upon which claims 2-3 and 8-10 depend. Claim 1 recites "a releasing device for releasing a sample from a sampling tube to provide a released sample", "an analyser for analysing a first portion of the released sample", "a re-collection device for collecting a second portion of the released sample," and "a re-release device for re-

releasing the collected said second portion of the released sample that has been collected to provide a re-released portion of the sample for archiving or further analysis.” Nothing in *Albro* discloses any such recitations. For instance, claim 1 requires “a first portion” and “a second portion” of the same “sample”. To the contrary, *Albro* discloses two sample tubes 34, 35 with each tube having its own distinct sample. (*Albro*, pg. 2, para. 0021) Such distinct samples in sample tubes 34, 35 of *Albro* may have different characteristics and therefore are not the same samples. *Albro* is therefore directed to checking two distinct samples against each other. In addition, instead of disclosing the claim 1 recitation “re-collection” of “a second portion of the released sample,” *Albro* discloses analysis of the two different samples from distinct tubes 34, 35 with no such “re-collection” of a “second portion” as required by claim 1.

In view of the recitations in independent claim 1 that are not disclosed by *Albro*, the Applicant respectfully requests that the Examiner withdraw the §102 rejection and allow independent claim 1. Applicant further requests that the Examiner also withdraw the §102 rejections of dependent claims 2-3 and 8-10, since it is submitted that independent claim 1 is allowable. Dependent claims 2-3 and 8-10 must *a fortiori* also be allowable, since the claims carry with them all the limitations of the independent claim to which they ultimately refer.

### **III. New claims 22-26 are allowable.**

By this Response, new claims 22-26 are added. Applicant respectfully submits that all such claims 22-26 are allowable.

### **IV. Conclusion**

Applicant respectfully requests reconsideration, allowance of the pending claims and a timely Notice of Allowance be issued in this case. If the Examiner feels that a telephone conference would expedite the resolution of this case, the Examiner is respectfully requested to contact the undersigned.

In the course of the foregoing discussions, Applicant may have at times referred to claim limitations in shorthand fashion or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art that have yet to be raised but which may be raised in the future.

Respectfully submitted,



---

Tod T. Tumey, Reg. No. 47,146  
TUMEY  
P. O. Box 22188  
Houston, Texas 77227-2188  
(713) 622-7005 (Phone)  
(713) 622-0220 (Fax)  
ATTORNEY FOR APPLICANT